

EXHIBIT F

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF BRONX: CRIMINAL TERM: PART H98
3 -----X

4 PEOPLE OF THE STATE OF NEW YORK

5 INDICTMENT NO.
6 2712/06

7 - against -

8 FRANK DITOMMASO and PETER DITOMMASO,

9 Defendants..
10 -----X

11 265 East 161st Street
12 Bronx, New York 10451
13 October 18, 2012

14 BEFORE: HONORABLE JOHN W. CARTER,

15 Justice of the Supreme Court.

16 (Appearances same as previously noted.)

17 Michael Salvietti
18 Senior Court Reporter
19 -----

20 (Whereupon, the following takes place on the
21 record in open court in the presence of counsel and the
22 Court:)

23 THE CLERK: This is continued case on trial,
24 Indictment 2712 of 2006, in the matter of Frank DiTommaso
25 and Peter DiTommaso. Please note that the defendants are
present and all parties are present.

Appearances, please.

MS. FLEMING: Good morning, your Honor and
counsel; Cathy Fleming and Jillian Searles for Frank

Ray - People - Direct/Levy

1 Aponte?

2 A. Excuse me?

3 Q. Did there come a time you met with Angelo Aponte?

4 A. Yes.

5 Q. How did that come about?

6 A. It was in the course of doing what I was doing for
7 Interstate, in the course of work looking at problems, looking
8 at Johnson Street.

9 Q. By the way, did you ever go to a Department of
10 Corrections Christmas party with Frank DiTommaso?

11 A. Yes.

12 Q. How did that come about?

13 A. Bernie wanted me to bring Frank there.

14 Q. Who was at that party?

15 THE COURT: We can get -- Ms. Fleming's quite
16 right, can we get dates?

17 A. Mr. Levy, I just want to state, I'm not trying to be
18 difficult, but I have a fever.

19 THE COURT: You have a what?

20 THE WITNESS: Fever.

21 THE COURT: Fever?

22 THE WITNESS: Yeah. I think I have the flu.

23 Q. You're not--

24 THE COURT: You're not well now?

25 THE WITNESS: I think I got the flu.

Ray - People - Direct/Levy

1 THE COURT: None of us want to get the flu. How
2 are you feeling now? Let's take the jurors out.

3 (Jurors exit courtroom.)

4 THE COURT: Okay, we certainly don't want you be
5 testifying if you are not well.

6 Question is, do you feel-- I mean, we're almost
7 toward the end of the day. Do you feel you can continue?

8 THE WITNESS: I'm starting to get a headache,
9 actually. I'm having more difficulty hearing Mr. Levy.

10 MR. LEVY: Judge, just so you know, Mr. Ray,
11 before we came up this afternoon, indicated he was not
12 feeling when will and he had a fever. I asked him if he
13 could testify, he said he would try. This has happened
14 now, so.

15 THE COURT: Okay.

16 Let's talk over here.

17 (Whereupon, the following discussion takes place
18 on the record, at the sidebar, in the presence of the
19 Court and counsel)

20 THE COURT: He's your witness. What do you want
21 to do?

22 MR. LEVY: Well, looks like it's affecting his
23 ability testify. Maybe we should take a break.

24 THE COURT: Looks that way to me, too.

25 MR. LEVY: He's wiping his head, looks like he's

Ray - People - Direct/Levy

1 sweating bullets.

2 MR. WICZYK: When I went with the video he was
3 already sweating, all comedy aside.

4 THE COURT: These things don't get -- they get
5 worse before they get better.

6 We can try for tomorrow.

7 MR. LEVY: Why don't we try for tomorrow.

8 THE COURT: Okay.

9 (Whereupon, the following takes place on the
10 record in open Court in the presence of all parties.)

11 THE COURT: We're going to stop for the day. Go
12 home, get some rest and hopefully we can resume tomorrow,
13 we hope.

14 THE WITNESS: All right; thank you.

15 (Whereupon, there was a pause in the
16 proceedings.)

17 THE COURT: You can get them.

18 (Whereupon, there was a pause in the
19 proceedings.)

20 COURT OFFICER: Jury entering.

21 (Jurors entered the courtroom.)

22 THE COURT: Okay, everybody can be seated.

23 THE CLERK: Judge, all jurors are present and
24 properly seated, jurors present. Witness reminded you are
25 still under oath.

Proceedings

1 THE COURT: We're going to stop for the day.
2 Please don't discuss the case amongst yourselves or with
3 anyone else. We're going to ask you be back here tomorrow
4 at ten. Don't form any opinions until you've heard all the
5 evidence, don't research any fact or issue relative to this
6 case by any means. Don't read the newspaper or any other
7 account about the case.

8 Have a nice evening.
9 (Jurors exit courtroom.)

10 THE COURT: All right, Mr. Ray, you can take
11 off.

12 THE WITNESS: Thank you.
13 (Witness exits courtroom)

14 THE COURT: Maybe we can use this opportunity now
15 to talk about the emails.

16 Do you want to go out, talk to him?

17 THE COURT: All right.

18 (Whereupon, there was a pause in the
19 proceedings.)

20 THE COURT: We're back on the record. Mr. Levy,
21 you are going to be attempting to introduce emails?

22 MR. LEVY: Yes, Judge. For all the reasons I
23 stated in our motion in limine, we believe those emails can
24 come in under a number of theories. I'm not sure what the
25 basis for the objection here is now. Sounds like it has

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF BRONX: CRIMINAL TERM: PART H98

-----X

3 PEOPLE OF THE STATE OF NEW YORK

4 INDICTMENT NO.
5 2712/10

6 - against -

7 FRANK DITOMMASO and PETER DITOMMASO,

8 Defendants.

-----X

9 265 East 161st Street
10 Bronx, New York 10451
11 October 19, 2012

12 BEFORE: HONORABLE JOHN W. CARTER,

13 Justice of the Supreme Court.

14 (Appearances same as previously noted.)

15 Michael Salvietti
16 Senior Court Reporter

17 (Whereupon, the following takes place on the
18 record in open court in the presence of counsel and the
19 Court:)

20 THE CLERK: This is No. 1 one on the calendar,
21 continued case on trial, Indictment 2712 of 2006, in the
22 matter of the People of the State of New York versus Frank
23 DiTommaso and Peter DiTommaso. Please note all parties
24 present, the defendants are present.

25 Appearances.

MS. FLEMING: Good morning, everyone: Cathy

Proceedings

1 Fleming and Jillian Searles on behalf of Frank DiTommaso.

2 MR. CULLETON: Good morning, everyone: James
3 Culleton and Michael Marinaccio on behalf of Peter
4 DiTommaso.

5 MR. LEVY: Stuart Levy for the People; good
6 morning, Judge.

7 MR. WICZYK: Omer Wiczuk for the People; good
8 morning, everyone.

9 MR. KENNEDY: Peter Kennedy for the People; good
10 morning.

11 THE COURT: Okay. Mr. Levy, you said Mr. Ray is
12 still ill, correct?

13 MR. LEVY: That's correct, Judge.

14 THE COURT: All right. So we're going to bring
15 the jury in, I will tell them that, have them come in
16 Monday.

17 COURT OFFICER: Jury in?

18 THE COURT: Yes.

19 COURT OFFICER: Jury entering.

20 (Jurors entered the courtroom.)

21 THE CLERK: All jurors present and properly
22 seated.

23 THE COURT: All right, good morning everyone.
24 Unfortunately Mr. Ray is still ill. We had hoped, you
25 know, we could have, maybe I could have told you yesterday

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Proceedings

1 but we were hoping that he was feeling better so that we
2 could move along.

3 But anyway, he's still ill, so we're not going to
4 have any testimony today. So I'm going to excuse you for
5 the weekend. We're going to ask you to be here Monday at
6 10 o'clock.

7 Please keep in mind, I had told you that all of
8 the Tuesdays would be off; it may be as we move into
9 November, I may be asking you to come in on Tuesday
10 afternoons just so we can move this along -- not next
11 Tuesday, you will still be off. I'll give you some notice
12 on that.

13 Anyway, see you Monday at ten. Don't discuss the
14 case amongst yourselves or anyone else, don't form any
15 opinion until you've heard all the evidence.

16 COURT OFFICER: Jurors, step out.

17 (Jurors exit courtroom.)

18 THE COURT: All right Monday, you said, will be
19 Catania?

20 MR. LEVY: Yes, then resume Larry Ray.

21 THE COURT: See you Monday.

22 (Whereupon, court is recessed and the case
23 adjourned to Monday, October 22, 2012 at 10:00 a.m.)

24 (See next page)

25

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF BRONX: CRIMINAL TERM: PART H98

-----X

3 PEOPLE OF THE STATE OF NEW YORK

4 INDICTMENT NO.
5 2712/06

6 - against -

7 FRANK DITOMMASO and PETER DITOMMASO,

8 Defendants.

-----X

9 265 East 161st Street
Bronx, New York 10451
October 22, 2012

10 BEFORE: HONORABLE JOHN W. CARTER,
11 Justice of the Supreme Court.

12 (Appearances same as previously noted.)

13 Michael Salvietti
14 Senior Court Reporter

15 -----

16 (Whereupon, the following takes place on the
17 record in open court in the presence of counsel and the
18 Court:)

19 THE CLERK: Continued case on trial, Indictment
20 2712 of 2006, in the matter of People of the State of New
21 York versus Frank DiTommaso and Peter DiTomasso.

22 Please note the defendants are present and all
23 parties are present.

24 Appearance.

25 MS. FLEMING: Good morning, your Honor and

Proceedings

1 counsel; Cathy Fleming and Jillian Searles on behalf of
2 Frank DiTommaso.

3 MR. CULLETON: Good morning, your Honor; James
4 Culleton and Michael Marinaccio appearing for Peter
5 DiTommaso.

6 MR. LEVY: Stuart Levy for the People; good
7 morning, Judge.

8 MR. WICZYK: Omer Wiczuk for the People; good
9 morning everyone.

10 MR. KENNEDY: Peter Kennedy for the People, good
11 morning.

12 THE COURT: I heard the distressing news that
13 Mr. Ray is not here.

14 MR. LEVY: Mr. Ray, I spoke to him several times
15 over the weekend, he had been optimistic about hopefully
16 being able to testify; he does want to get this over with.

17 He had some sort of sinus infection, still had a
18 fever on Sunday, he just said he would not be able to show
19 up.

20 He needs -- he's taking antibiotics, they need to
21 run their course. He seems to be confident he will be
22 available by Wednesday, but he was not available today.

23 We had planned also having Frank Catania testify
24 today. Mr. Wiczuk has been in contact with him, was
25 texting him, phoning him, was not getting responses, then

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Proceedings

1 last night he got a text from Mr. Catania saying he had
2 major complications from his eye surgery and will not be
3 available today either.

4 THE COURT: Are you sure these guys are not
5 gaming you? They don't want to be here anyway.

6 MR. LEVY: I don't think anybody wants to be here
7 in terms of the witnesses. I have nothing to suggest that
8 they are. I can't say they are or they aren't.

9 MR. WICZYK: Mr. Catania did come in, if you
10 remember, your Honor.

11 THE COURT: He didn't want to be here.

12 MR. WICZYK: He came here from a red eye, he was
13 upset he wasn't called.

14 THE COURT: Let's talk about what -- we're going
15 to have to do this another day. We have to continue this
16 case.

17 Look, Mr. Ray might not be ready on Wednesday.
18 What do you intend to do?

19 MR. LEVY: Before we get to that, Judge, we also
20 have Sandya Tidke, who is here in the Bronx today who is on
21 jury duty -- is in this building, as a matter of fact. We
22 would be able to put her on the stand. I understand
23 defense may be opposing her even testifying, but assuming
24 you would allow her to testify, she could be available
25 today if we could bring her out of jury duty for the brief

Proceedings

1 period of time that she would have to testify.

2 So she is a potential witness for today. In
3 terms of what I'm going to do come Wednesday, I believe we
4 can start, I believe Larry Ray will be ready or we will
5 have Tim Woods ready. So we're ready to go forward. I
6 don't anticipate any problems with any of the other
7 witnesses that we plan on finishing this case with. I
8 think we can move this as expeditiously as possible
9 starting Wednesday with all these witnesses.

10 I think maybe the best thing to do in terms of
11 Wednesday, instead of putting Mr. Ray on the stand, is to
12 put Tim Woods on the stand and then Mr. Ray after that to
13 make sure whatever ailment Mr. Ray has, that it will have
14 run its course by the time he testifies. I would imagine
15 Mr. Woods would be on the stand for a day, then Larry Ray
16 maybe Thursday and Friday. Then we have a whole host of
17 witnesses we have scheduled to start next week.

18 So I anticipate the rest of this trial will run
19 smoothly, unless somebody else comes down with something.

20 THE COURT: Who is going to be testifying? I say
21 put Tim Woods on and call it a day.

22 Who else will be testifying?

23 MR. LEVY: Tim Woods, Larry Ray, Sal Fischera,
24 Eugene Hughes, Mr. Crisalli.

25 MR. KENNEDY: Several custody witness with

Proceedings

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1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF BRONX: CRIMINAL TERM: PART H98

3 -----X

4 PEOPLE OF THE STATE OF NEW YORK

5 INDICTMENT NO.

2712/06

6 - against -

7 FRANK DITOMMASO and PETER DITOMMASO,

8 Defendants.

9 -----X

265 East 161st Street

Bronx, New York 10451

October 24, 2012

10 BEFORE: HONORABLE JOHN W. CARTER,

11 Justice of the Supreme Court.

12 (Appearances same as previously noted.)

13 Michael Salvietti

14 Senior Court Reporter

15 -----

16 (Whereupon, the following takes place on the
17 record in open court in the presence of counsel and the
18 Court:)

19 THE CLERK: This is No. 2 on the calender,
20 Indictment 2712 of 2006, People State of New York against
21 Frank DiTommaso and Peter DiTommaso.

22 Please note that the defendants, defense
23 attorneys, ADAs are all present.

24 Appearances.

25 MS. FLEMING: Cathy Fleming and Jillian Searles

c-vm

HUGHES - PEOPLE - DIRECT (LEVY)

1 MR. LEVY: Judge, we have Mr. Hughes and Sal
2 Fichera.

3 THE COURT: What is Fichera going to testify to
4 that this guy didn't?

5 MR. LEVY: He has some additional things that I
6 need to elicit from him, Judge, concerning his relationship
7 with the DiTommasos as well as the -- explain certain of
8 these documents.

9 THE COURT: Okay. I don't want any repetition.

10 MR. LEVY: I will not be --

11 THE COURT: Who else?

12 MR. LEVY: Well, Judge, we're at a crossroads
13 here because you know Larry Ray is still sick as far as I
14 know.

15 THE COURT: Have you talked to him? I mean,
16 what's --

17 MR. LEVY: I did, Judge, and I said --

18 THE COURT: But what is his problem?

19 MR. LEVY: His problem is he has a sinus
20 infection plus the flu. And according to him the doctor
21 said it's going to be a couple of more days to run its
22 course. He sounds horrible on the phone. I told him
23 though, Judge, that I can put you on the phone if you
24 wanted to talk to him and to see -- to judge for yourself
25 whether he's telling the truth or not. He sounds sick, you

c-vm

HUGHES - PEOPLE - DIRECT (LEVY)

1 know, but --

2 MR. KENNEDY: He said he had a 102 fever.

3 MR. LEVY: It sounds like he would rather -- he
4 would not be ready or able until sometime Friday at the
5 earliest.

6 And here's the other problem that we have. We
7 still have to deal with this stuff with Tim Woods. And I
8 haven't gotten a definitive answer yet nor have I gotten an
9 affidavit that we were thinking about.

10 If I can make a suggestion? We have these two
11 witnesses. We got to finish Hughes and Fichera tomorrow.
12 The witnesses that are coming up are dependent on Larry Ray
13 and Tim Woods either/or testifying because they're
14 dependent, for instance, with respect to the emails, it's
15 dependent on Larry Ray testifying concerning the emails as
16 to whether or not those things come in. With respect to
17 the Turner job, that's dependent on what Tim Woods
18 testifies to. So we're at a crossroads at calling people
19 within the next two days because we're getting towards the
20 end.

21 So my suggestion is let's see what happens
22 tomorrow and I don't know how it's going to work out with
23 Tim Woods. He's a possibility for Friday. Maybe it will
24 be Monday. But at the very least we'll be able to hash
25 that out and I know, Judge, the defense is concerned with

C-vm

HUGHES - PEOPLE - DIRECT (LEVY)

1 investigating further into this whole Tim Woods -- the Tim
2 Woods issue and I'm trying to find out stuff.

3 THE COURT: You put this allegation on the
4 record, you know, which is commendable about Tim Woods. If
5 I were his attorney or if you were his attorney, would you
6 put him on the witness stand not knowing any of the
7 specifics about any of this?

8 MR. LEVY: Judge, I have been speaking to
9 Mr. Wiczyk. Mr. Wiczyk has spoken to Mr. Watters. We
10 don't have all the information yet.

11 THE COURT: You don't have any information.

12 MR. LEVY: Well, what we do know, at least
13 according to Mr. Wiczyk is that with respect -- the statute
14 of limitations may have already run. So there may not be
15 any exposure. But I don't know because we don't have all
16 the indictments. So that's where we're at then. We're
17 trying our best to do it. We're doing this as best we can.
18 Before we put it on the record, we're trying to get the
19 information. When it came time that we thought Tim Woods
20 was going to testify, that's when we discovered it. Look,
21 now it's time to make it clear to everybody so we can nip
22 this in the butt before it happens. We are trying our
23 best.

24 This is all beyond my control. The sickness of
25 Larry Ray, this whole thing about Tim Woods, we are doing

C-vm

HUGHES - PEOPLE - DIRECT (LEVY)

1 our best to get this done. But once we get these two
2 issues resolved, this case should be able to move forward
3 towards its conclusion fairly quickly, I would think.

4 So let's see what's happening tomorrow. I will
5 have an update. If we have to resume on Monday instead of
6 bringing him back for no reason Friday since Larry Ray
7 might not be available, then we come back on Monday and we
8 resume from there. Presumably everything will be resolved
9 by then as far as I can tell.

10 THE COURT: Can you tell me what can you do with
11 regard to this unknown affidavit by this unknown person?

12 MR. LEVY: Mr. Wiczzyk has spoken to the attorneys
13 for this person that he mentioned and they are in the
14 process of getting this affidavit, so they say. The person
15 that we were supposed to get it from apparently got a
16 little nervous when we were pressing him for it, so he went
17 to the attorney who is representing him, I guess in that
18 bankruptcy litigation and so now they're dealing with him
19 and apparently it was a surprise to them. They didn't know
20 nothing about this. So it sounds kind of crazy but we're
21 trying to get to the bottom of this as quickly as possible.

22 MS. FLEMING: Judge, I need to complete the
23 record on something as an attorney and as an officer of the
24 court. There's no question in my mind that if Tim Woods,
25 in connection with the sale of the company it has come out

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX: CRIMINAL TERM: PART H98

PEOPLE OF THE STATE OF NEW YORK

INDICTMENT NO.
2712/06

- against -

FRANK DITOMMASO and PETER DITOMMASO,

Defendants.

265 East 161st Street
Bronx, New York 10451
October 26, 2012

BEFORE: HONORABLE JOHN W. CARTER,

Justice of the Supreme Court.

(Appearances same as previously noted.)

Michael Salvietti
Senior Court Reporter

(Whereupon, the following takes place on the
record in open court in the presence of counsel and the
Court:)

THE CLERK: This is No. 2 on the calender,
continued case on trial, Indictment 2712 of 2006, Peter
DiTommaso and Frank DiTommaso.

MR. CULLETON: Your Honor--

THE COURT: Appearance.

MR. CULLETON: James Culleton and Michael
Marinaccio for Peter DiTomasso.

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Proceedings

1 client clearly faces potential federal liability. The
2 immunity given in the grand jury in the federal
3 proceedings, I think, from my assessment of it and my
4 evaluation of it, is that there are still issues that will
5 result in criminal liability for my client if he comes in
6 and testifies, most particularly in regard to the federal
7 matter.

8 I've recommended to him that he should not.

9 MR. LEVY: We need more specifics with regard to
10 this supposed exposure on these federal matters. Again,
11 the testimony that he gave in the grand jury was
12 October 4th of 2007, more than five years ago. So there is
13 no exposure here.

14 Mr. Watters has said something about matters that
15 he is not at liberty to divulge to us, I would submit,
16 Judge, he should divulge them to you so we can make an
17 assessment here. We believe there is no exposure, there is
18 no exposure. There is no valid basis for him to take the
19 Fifth Amendment regarding the facts of this case.

20 THE COURT: Irregardless of all that, given the
21 schedule that he laid out, what does that do?

22 MR. LEVY: We'll put Larry Ray on, go forward
23 with our case without Tim Woods and work around it. We'll
24 go forward.

25 Right now there is no valid basis for him to take

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Proceedings

1 the Fifth Amendment.

2 MR. WATTERS: I disagree, of course.

3 MR. LEVY: Ultimately, you're the final arbiter,
4 you.

5 MR. WATTERS: Ultimately I have an obligation to
6 my client that I cannot waive the confidentiality of what
7 my client tells me.

8 MR. LEVY: Judge, I submit he can waive, talk to
9 you in camera without endangering any confidentiality.

10 MR. WATTERS: I would like see case law on that.
11 If it is true, I'll do it.

12 MR. LEVY: They're has to be a valid basis shown.
13 If there is no valid basis, he's got to take that stand.

14 THE COURT: Well, the question is, what I have to
15 think about -- I'm not going to make a decision now,
16 whether I am going to order Mr. Watters to speak to me
17 in-camera, all right. That is a decision I'll mull over.

18 You will be around? You're around?

19 MR. WATTERS: Unfortunately, Judge, I'm not going
20 on vacation.

21 THE COURT: All right, you're planning on
22 proceeding with Larry Ray and your case?

23 MR. LEVY: And the rest of the witnesses.

24 THE COURT: What about these witnesses you claim
25 couldn't testify until Woods testified?

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Proceedings

1 Since then I haven't seen him, I don't know him personally.
2 I just want to let you know that.

3 MS. FLEMING: Thank you for the disclosure Judge.
4 It's fine.

5 THE COURT: All right, noon.

6 MS. FLEMING: Do we have anyone in the case if
7 Larry Ray continues to be sick?

8 Do we have a Plan B?

9 THE COURT: That's a good question.

10 MR. LEVY: Larry Ray.

11 THE COURT: Have you spoken to him today?

12 MR. LEVY: Called him today, I got voice mail.

13 THE COURT: Voice mail. He's out and about?

14 MR. LEVY: Doesn't mean he's out and about,
15 Judge. I have my cell phone, People call me, phone is in
16 the house, I don't answer the phone. So I don't know what
17 the reason is for that. I will call him back. My
18 anticipation is he's going to be here. He's made that
19 clear to me that he would be. So that's what we're going
20 to be doing.

21 THE COURT: Well, if by chance he's not, you let
22 us know.

23 MR. LEVY: Yes. If I learn today he's not, you
24 will know.

25 THE COURT: You will have somebody else?

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Proceedings

1 MR. LEVY: Yes.

2 MS. FLEMING: Who is after him?

3 THE COURT: You all discuss that.

4 MS. FLEMING: Judge, noon on Monday we'll check
5 the website as well.

6 (Whereupon, court is recessed and the case
7 adjourned to Monday, October 29, 2012 at 12:00 p.m.)

8 (See next page)

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1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF BRONX: CRIMINAL TERM: PART H98

-----X

3 PEOPLE OF THE STATE OF NEW YORK

4 INDICTMENT NO.
5 2712/06

6 - against -

7 FRANK DITOMMASO and PETER DITOMMASO,

8 Defendants.

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9 265 East 161st Street
10 Bronx, New York 10451
11 November 1, 2012

12 BEFORE: HONORABLE JOHN W. CARTER,

13 Justice of the Supreme Court.

14 (Appearances same as previously noted.)

15 Michael Salvietti
16 Senior Court Reporter

17 (Whereupon, the following takes place on the
18 record in open court in the presence of counsel and the
19 Court:)

20 THE CLERK: Matter of People of the State of New
21 York against Frank DiTommaso and Peter DiTommaso, 2712 of
22 2006. Counsels -- district attorneys and defense counsels
23 all present before the Court. The defendants are excused.

24 THE COURT: Okay, thanks everybody for coming in.
25 We just wanted to get you all together to see where we are
going, having lost now more time this week. I'm hoping we

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Proceedings

1 THE COURT: You all can discuss this some other
2 time. My concern obviously is to move this along as fast
3 as possible.

4 MR. LEVY: And mr. Ray will be here Monday,
5 Judge.

6 THE COURT: I will see you then.

7 MR. KENNEDY: After Mr. Ray, it will be -- you
8 asked who else after Mr. Ray. It will be the chain of
9 custody witnesses for the hard drive, which should -- three
10 of them, each should be relatively quick, followed by
11 Mr. Crisalli, who will be the longest of those types of
12 witnesses.

13 THE COURT: Who is he?

14 MR. KENNEDY: Special agent with the FBI who
15 performed forensic analysis on the hard drive and retrieved
16 the emails in question.

17 THE COURT: Then what?

18 MR. WICZYK: Special agent D'Amico may be
19 testifying. We have Janet White, who is coming from
20 Florida to testify. She was the project manager for most
21 of the period on the St. Vincent's Nursing Home project,
22 and we have at least two witnesses from Turner
23 Construction. At this point we intend to call Gerry
24 Phillips -- with a G, and Stephen Krill, project manager
25 and superintendent on the St. Vincent's Nursing Home

In The Matter Of:

*THE PEOPLE OF THE STATE OF NEW YORK v.
FRANK DiTOMMASO AND PETER DiTOMMASO*

TRIAL TESTIMONY

November 5, 2012

*Valerie E. Monaco
265 East 161st Street, Room 264
Bronx, New York 10451
(718) 618-1513*

Proceedings

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1 THE COURT: I see you have an overcoat on. You're
2 cold.

3 COURT OFFICER: Witness entering.

4 JURORS: Good morning, everyone, Your Honor.

5 THE COURT: Good morning, Mr. Ray. How are you
6 feeling?

7 THE WITNESS: Good morning.

8 THE COURT: A little better.

9 THE WITNESS: Almost.

10 THE COURT: Almost. All right.

11 L A R R Y R A Y, resumed the witness stand and
12 having been called as a witness on behalf of the People,
13 continued his testimny as follows:

14 COURT CLERK: State your name and spell it.

15 THE WITNESS: Larry Ray, R-A-Y.

16 THE COURT: All right. Mr. Levy.

17 MR. LEVY: Thank you.

18 DIRECT EXAMINATION

19 BY MR. LEVY:

20 Q Good morning, Mr. Ray.

21 A Good morning.

22 Q Try and keep your voice up, so everybody can hear. How
23 are you feeling today?

24 A Little better.

25 Q You feel well enough to go forward today; is that